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1 {York Stenographic Services, Inc.}

2 RPTS TOOT

3 HIF205.160

4 H.R. 3670, THE ANTI-SPOOFING ACT OF 2013;

5 H.R. _____, THE LPTV AND TRANSLATOR ACT OF 2014;

6 AND H.R. _____, THE E-LABEL ACT

7 THURSDAY, JULY 24, 2014

8 House of Representatives,

9 Subcommittee on Communications and Technology

10 Committee on Energy and Commerce

11 Washington, D.C.

12 The subcommittee met, pursuant to call, at 10:12 a.m.,
13 in Room 2322 of the Rayburn House Office Building, Hon. Greg
14 Walden [Chairman of the Subcommittee] presiding.

15 Members present: Latta, Shimkus, Terry, Lance, Guthrie,
16 Gardner, Long, Ellmers, Barton, Eshoo, Doyle, Braley, Welch,

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17 Matheson, Waxman (ex officio), and Walden.
18 Staff present: Ray Baum, Senior Policy Advisor/Director
19 of Coalitions; Leighton Brown, Press Assistant; Andy
20 Duberstein, Deputy Press Secretary; Graham Dufault, Policy
21 Coordinator, CMT; Gene Fullano, Detailee, Telecom; Kelsey
22 Guyselman, Counsel, Telecom; Grace Koh, Counsel, Telecom;
23 David Redl, Counsel Telecom; Charlotte Savercool, Legislative
24 Clerk; Shawn Chang, Democratic Chief Counsel for
25 Communications and Technology Subcommittee; Margaret
26 McCarthy; Democratic Professional Staff Member; Ryan
27 Skukowski, Democratic Policy Analyst; and Patrick Donovan,
28 Democratic FCC Detailee.

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29 Mr. {Walden.} We will call to order the Subcommittee on
30 Communications and Technology for our hearing on HR 3670, the
31 Anti-Spoofing Act of 2013, the LPTV and Translator ACT of
32 2014, and the E-LABEL Act. We are here today to conduct an
33 important part of the Committee's business, a legislative
34 hearing on Bills and discussion drafts. We will be
35 considering three different but useful pieces of legislation
36 that will benefit consumers, streamline electronic device
37 manufacturing for the digital age and protect Americans from
38 misleading communications.

39 HR 3670, the Anti-Spoofing Act of 2013, aims to prevent
40 bad actors from using spoofing services to misrepresent who
41 is sending a text message. Introduced by Representatives
42 Barton and Meng, this bipartisan Bill enhances the
43 protections of the Truth in Caller ID Act of 2009 by
44 extending the prohibition to text messaging. Spoofing, when
45 a caller purposefully falsifies who is originating a call or
46 a text message, has often been used maliciously by scammers
47 to trick unsuspecting recipients. By utilizing one of the
48 many easily found spoofing services, the perpetrator can make

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49 a text message appear as though it is from anyone the sender
50 chooses to impersonate; usually, posing as a familiar
51 website, service or friend or relative of the recipient.
52 Thinking they are talking to someone they know and trust, the
53 person on the receiving end is convinced to give up personal
54 and sensitive information like bank account numbers or
55 passwords. For example, customers of a Florida credit union
56 received text messages that their--that were allegedly from
57 the bank, alerting them to unusual activity on their account,
58 and requesting information, including credit card numbers,
59 PIN numbers and account numbers. While the credit union was
60 able to quickly detect the scam and alert customers, there
61 were thousands at risk for compromised personal information.
62 This Bill intends to protect cell phone users from this kind
63 of harmful mischief in the same way we protect consumers from
64 spoofing or voice caller ID.

65 Next, we will consider the LPTV and Translator Act of
66 2014, a discussion draft offered by Mr. Barton that addresses
67 how the FCC should treat low powered television stations and
68 television translators in the upcoming broadcast incentive
69 auction. The incentive auction was one of this Committee's

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70 contributions to the Middle Class Tax Relief and Job Creation
71 Act of 2012, and offers broadcasters compensation for
72 relinquished spectrum to be used for other purposes. While
73 low powered stations and translators are not eligible to
74 participate in the auction, this draft urges the FCC to
75 account for the value of LPTV and translators to communities
76 all across our country. Translators play an important role
77 for so many in the mountain west, including my own district
78 in eastern Oregon. I have long urged the Commission to keep
79 this value in mind when conducting the repacking analysis,
80 and was happy to work with Mr. Barton on the language on this
81 discussion draft. This draft would memorialize that
82 sentiment in law as well as allow LPTV and translator
83 licensees additional opportunities to petition the FCC to
84 stay on the air after the incentive auction process is
85 complete.

86 Finally, we will consider the E-LABEL Act, this
87 bipartisan, bi-cameral proposal is a commonsense piece of
88 legislation that brings outdated regulations in line with
89 consumer expectations. Currently, all equipment and devices
90 that are licensed by the FCC for radio frequency compliance

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91 must have a physical label that shows the licensing
92 information. You will see it right there on the back of your
93 smart phone. The E-LABEL Act would allow manufacturers of
94 devices with screens like smart phones to display a digital
95 label rather than the physical mark on the device itself.
96 Now, that makes it easier and less expensive to put a label
97 on your ever shrinking electronics. This legislation is
98 another example of bringing existing regulations in line with
99 modern technology by allowing digital labeling consumers and
100 regulators can still access important information easily
101 without the sometimes onerous requirements on manufacturers.
102 It reminds me of those labels on your mattress that says do
103 not remove this label under penalty of law.

104 Ms. {Eshoo.} Under penalty of law.

105 Mr. {Walden.} E-labels can provide more detailed
106 information. Did you ever cut them off, by the way? E-
107 labels can provide more detailed information without the
108 space limitations of a physical label, as well as potential
109 cost savings as labels can become part of the code programmed
110 into a device, rather than etched into the external body of
111 the equipment.

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112 I want to recognize the FCC for their work on this
113 issue, led by Commissioners O'Rielly and Rosenworcel. The
114 Commission issued guidance for manufacturers wishing to use
115 digital labeling for their devices, including guidelines for
116 how to properly display the information and how to educate
117 consumers on accessing the labels. I also commend my
118 colleagues, Representatives Latta and Welch, as well as
119 Senators Fischer and Rockefeller, for their bipartisan work
120 in this effort to streamline and modernize consumer
121 protection rules. More efficient government and regulation
122 for the innovation era is a goal of the Energy and Commerce
123 Committee, and one that our Subcommittee is clearly committed
124 to furthering.

125 So we look forward to the testimony of our witnesses,
126 and I yield back the balance of my time.

127 [The prepared statement of Mr. Walden follows:]

128 ***** COMMITTEE INSERT *****

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129 Mr. {Walden.} And now I recognize the gentlelady from
130 California, the Ranking Member of the Subcommittee, Ms.
131 Eshoo, for an opening statement.

132 Ms. {Eshoo.} Thank you, Mr. Chairman. As you stopped,
133 I thought is he going to recognize me? And you did. Thank
134 you.

135 Good morning, everyone. And welcome to our colleague,
136 Congresswoman Meng from New York. We are delighted that you
137 are here and proud of the work product that you have brought
138 forward.

139 3670, the Anti-Spoofing Act of 2013, is a bipartisan
140 Bill, and it is aimed at reducing the number of fraudulent
141 phone calls and text messages received by millions of
142 Americans. It is a very practical Bill. It is a Bill that
143 is really going to correct something that I think everyone in
144 the country wants corrected. So I really salute you for
145 coming up with something that is very practical.

146 Just this morning, NPR ran a story about a series of
147 spoofing incidents in Maryland where people received calls
148 purported to be from the state police demanding payment for

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149 court or traffic fines. In--I mean, most people would just
150 out of a little bit of fear and intimidation just pay
151 attention to it and, you know, these frauds would do very
152 well by their fraudulency with vulnerable people. So at a
153 time in which unscrupulous behavior is on the rise, this pro-
154 consumer Bill will better protect Americans from becoming
155 victims of scammers and deceitful telemarketers. And, again,
156 I commend Congresswoman Meng for her leadership and for
157 assembling a bipartisan group of cosponsors. That is the
158 secret sauce around here. And I salute you for doing that,
159 couple with the endorsements from AARP, the major county
160 sheriff's association, the major cities, chief's association
161 and public knowledge, which is wonderful that public
162 knowledge has endorsed the Bill as well.

163 And so, Mr. Chairman, I look forward to your calling
164 for--proceeding with a markup of this Bill, because it is an
165 excellent one. I am also pleased to support our colleague,
166 Mr. Latta's Bill, the E-LABEL Act. That too is a bipartisan
167 Bill. And he worked with our colleagues, Mr. Welch and Ms.
168 Blackburn in introducing that earlier this week. You
169 explained what the E-labeling guidance issued by the FCC

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170 earlier this month does. And to promote the electronic
171 labeling for FCC certified devices, phones, computers, smart
172 watches, this is only going to grow, this field. And this
173 needs an update. And I think it is an excellent one.

174 I have concerns with the LPTV and Translator
175 Preservation Act. Low powered television stations provide a
176 very important public service in communities around the
177 country, particularly in the rural America. And it is why as
178 part of the Spectrum and Public Safety Act of 2012 members
179 agreed on a bipartisan basis to preserve the spectrum usage
180 rights of LPTV stations. But given the FCC new instructions
181 when they are well into the design and development of the
182 most complex spectrum auction ever conducted, I think would
183 add unnecessary complexity, and it could dismantle--I am not
184 saying will, but could dismantle the carefully crafted
185 balance on other issues of importance to the Subcommittee,
186 including maximizing both licensed and unlicensed.

187 So thank you, Mr. Chairman. And I am looking forward to
188 hearing the testimony of those that are here today, the
189 distinguished first panel and the second one. And I yield
190 the remainder of my time to Mr. Doyle.

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191 [The prepared statement of Ms. Eshoo follows:]

192 ***** COMMITTEE INSERT *****

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|

193 Mr. {Doyle.} I want to thank my friend for yielding.

194 Mr. Chairman, thank you for this hearing today. And we look
195 forward to hearing from our colleagues.

196 Mr. Chairman, I want to use this short amount of time I
197 have to just make some comments on the proposed Communication
198 Act update. This is something that I have been monitoring
199 with great interest, but also some concern. I know at this
200 point that majority staff has released a number of Brief
201 White Papers on spectrum competition and interconnection. I
202 think these are important issues, and it is this
203 Subcommittee's duty and responsibility to address these
204 topics. But I would say to my friend that these updates
205 won't move forward unless you start reaching out to members
206 and staff on our side of the aisle. These issues are real
207 that are at stake, and there is real opportunities to make
208 things better for the people of our country.

209 Mr. Chairman, I just want to use the opportunity to urge
210 you in the most friendly and kind way that we move forward
211 with the limited time in the session that we have over the
212 next few months to engage our side in meaningful discussion

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213 so that we can put forward a bipartisan discussion of these
214 issues. I thank you, and I look forward to working with you,
215 Mr. Chairman.

216 [The prepared statement of Mr. Doyle follows:]

217 ***** COMMITTEE INSERT *****

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218 Mr. {Walden.} I appreciate the gentleman's comment,
219 would be happy to have that conversation with him at another
220 time.

221 Mr. {Doyle.} Great.

222 Mr. {Walden.} And now, all time has been expired, so--
223 on that side. Now, we go to--recognize Mr. Barton for five
224 minutes.

225 Mr. {Barton.} I don't think I will take five minutes,
226 Mr. Chairman, but I do appreciate the opportunity.

227 There are two Bills that I have been actively engaged
228 with that are the subject of this markup today, HR 3670,
229 which is the Anti-Spoofing Act of 2014, and the Low Power TV
230 and Translator Preservation Act of 2014. Representative
231 Meng, who is sitting at the witness table, and I have been
232 working closely on HR 3670 to modernize the Truth in Caller
233 ID Act back in--of 2009 to include text messaging services,
234 IP enabled voice services and to hold foreign spoofing
235 services accountable to the law. Due to the many
236 conversations that we have had with various stakeholders, it
237 would be my intention that this Bill does go to markup to

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238 offer an amendment in the nature of a substitute to address
239 some of the concerns that have come up in the stakeholder
240 discussions.

241 There have been a number of spoofing incidents this year
242 alone, one in Abilene, Texas, in my state, just last Friday
243 when a person pretended to work for a roofing company in
244 order to collect money up front from the customers that they
245 were calling. Another incident, just two weeks ago, involved
246 a Bank of America, and someone commented on the story that
247 they received text messages from what appeared to be the Bank
248 of America directing them to call a number concerning a
249 problem with an account--with their own account, only to
250 later realize that it was a scam.

251 The majority of the members of this Subcommittee, Mr.
252 Chairman, including yourself and Ms. Eshoo, have cosponsored
253 HR 3670. So this is a Bill that I think, to echo what Mr.
254 Doyle just commented on, does have bipartisan cooperation,
255 could move through the Committee to the floor and even
256 through the other body and to the desk of the President this
257 year.

258 On the Low Power Television and Translator Preservation

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259 Act, it is--I am very quite frankly surprised on both sides
260 of that one some of the strongest low powered TV advocates
261 are against this Bill because they think it doesn't do
262 anything. On the other side of the equation, there are
263 people that think it goes too far and that somehow it would
264 impact in a negative way the pending auction. The truth of
265 the matter is that with your help, Mr. Chairman, I think we
266 have got it just right. It does give low powered TV license
267 holders increased moral standing, if nothing else, in their
268 petitions before the FCC. But as you know and I know, under
269 current law, they don't have a guarantee. They have a
270 secondary license which can be revoked by the FCC. If this
271 Bill does become law, they will still have a secondary
272 license. They will not have any guarantee. But they will
273 have the strength that--again, if this were to become law,
274 that legislatively, the House and the Senate, as signed by
275 the President, wants the FCC to work with low powered TV
276 license holders to give them the best chance possible to
277 maintain the viability in the marketplace.

278 On the lower power TV, Mr. Chairman, Bill, I've worked
279 with the National Association of Broadcasters, the Advanced

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280 Television Broadcast Alliance, the National Translators
281 Association, the National Religious Broadcasters. I have
282 also worked very extensively with you and your staff to
283 modify and to hopefully perfect this Bill. So I do hope, Mr.
284 Chairman, we have a good hearing. And I hope in the very
285 near future we can go to markup on both of these Bills.

286 [The prepared statement of Mr. Barton follows:]

287 ***** COMMITTEE INSERT *****

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288 Mr. {Walden.} I thank the gentleman who now yields to
289 the Vice-Chairman of the Committee, Mr. Latta.

290 Mr. {Latta.} Well, thank you very much for the
291 gentleman for yielding. And thank you very much, Mr.
292 Chairman, for holding this legislative hearing on these
293 important Bills today.

294 With the advancement of technology, businesses and
295 consumers alike have reaped tremendous benefits to ensure
296 that consumers continue to profit from groundbreaking
297 applications and services, and businesses continue to find
298 opportunities for investment and growth. We need to make
299 sure our laws reflect the 21st century information and
300 communications technology marketplace.

301 This will not only help foster future innovation as the
302 E-LABEL Act promotes, but it also protects gains we have made
303 with technologies currently employed today which the Anti-
304 Spoofing Act and the LPTV and Translator Act address. I look
305 forward to addressing and engaging in a closer examination on
306 each of these Bills.

307 And I thank the Chairman, and I yield back.

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308 [The prepared statement of Mr. Latta follows:]

309 ***** COMMITTEE INSERT *****

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310 Mr. {Walden.} The gentleman yields back the balance of
311 his time. And I think now we go to--who on your side would
312 like--would recognize for Mr. Waxman's time? Mr. Welch, do
313 you seek any time? Mr. Doyle, any further time?

314 Mr. {Doyle.} I don't.

315 Mr. {Walden.} Ms. Eshoo?

316 Mr. {Doyle.} Let us get to our witnesses.

317 Mr. {Walden.} Yeah. Okay.

318 Ms. {Eshoo.} Good move.

319 Mr. {Walden.} I like the way you think. I think we are
320 okay on our side, right? Because we have done both. So at
321 this point now, we will go--oh, look who showed up at the
322 witness table? It is a two-fer. A Latta two-fer. We are
323 delighted to have both of our colleagues here today, and
324 appreciate the good work that you have both done on these and
325 other pieces of legislation. And so with that, we will go to
326 panel one. And we will recognize the gentleman from Ohio,
327 Mr. Latta, to open. And then we will go to Ms. Meng as well.

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328 ^STATEMENTS OF HON. BOB LATTA, A REPRESENTATIVE IN CONGRESS
329 FROM THE STATE OF OHIO; AND HON. GRACE MENG, A REPRESENTATIVE
330 IN CONGRESS FROM THE STATE OF NEW YORK

|

331 ^STATEMENT OF HON. BOB LATTA

332 } Mr. {Latta.} Well, thank you very much, Mr. Chairman.
333 And I greatly appreciate the opportunity to give testimony on
334 the legislation today. I also want to thank the Ranking
335 Member Eshoo and all the other members of the Subcommittee
336 today. I appreciate the opportunity to present testimony on
337 the bipartisan E-LABEL Act.

338 The Federal Communications Commission has instituted an
339 equipment authorization program where electronic devices are
340 required to display a physical label documenting that it has
341 been properly certified by the commission for commercial use.
342 The label is also intended to provide consumers with means to
343 readily obtain additional information about the device as
344 efficiently as possible. While the information contained on
345 the label serves as an important function, it extends

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346 meaningful benefits and protections to consumers. The time
347 has come for the Commission to update its rules to reflect
348 modern technology and modify its equipment identification
349 requirements to permit electronic labeling or E-labeling for
350 wireless devices.

351 The current rule requiring physical labeling was adopted
352 by the FCC back in the 1970s. The Commission revisited that
353 rule in the late 1980s. And while it eliminated some
354 labeling requirements, the technological capability of
355 wireless devices at the time was admittedly not able to fully
356 support an equipment authorization standard or other than the
357 existing physical labeling system.

358 As we all know, technology, especially in the wireless
359 market, has advanced significantly since that time. And
360 wireless devices are today equipped with numerous
361 functionalities. They are without question able to support
362 the modernized equipment authorization standard of E-labeling
363 if given the option. Permitting E-labeling would not only
364 facilitate efforts to bring our communication laws in line
365 with 21st century technologies, but it would also benefit
366 both manufacturers and consumers.

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367 Manufacturers have increased flexibility to design
368 innovative products that consumers demand. It would also
369 reduce device manufacture development cost. According to the
370 Telecommunications Industry Association, E-labeling could
371 result in over 80 million in saving per year for companies.
372 Consumers in my state of Ohio and across the country would
373 also benefit from the efficiencies created by E-labeling. E-
374 labeling can expand consumer access to relevant device
375 information, and enhance the overall quality and availability
376 of equipment identification records through supporting
377 software.

378 The FCC recently released guidance on E-labeling. I
379 welcome the FCC's efforts on this issue and recognize it as
380 an important first step in promoting the use of E-labels.
381 The E-LABEL Act will facilitate efforts at the Commission by
382 establishing a timeframe for moving forward with a
383 rulemaking. This will ensure that the Commission takes
384 timely action on this issue and resolves any uncertainty that
385 manufacturers might have in opting to use E-labels.

386 We are in the midst of an innovation era where new and
387 groundbreaking technologies and devices are introduced into

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388 the information communications technology marketplace almost
389 daily. Our laws need to reflect this reality.

390 I thank Congressman Welch, Congresswoman Blackburn and
391 Ranking Woman Eshoo for their support on this measure. I
392 thank Chairman Walden again for the opportunity to present
393 the testimony today on E-LABEL ACT and advance efforts to
394 modernize our communication laws for the digital age. And I
395 thank the Chairman again.

396 [The prepared statement of Mr. Latta follows:]

397 ***** INSERT 1 *****

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398 Mr. {Walden.} I thank the gentleman for this testimony.
399 And now we will go to the gentlelady from New York, Ms. Meng,
400 for her testimony on this legislation. We appreciate your
401 bringing this forward to us. And please go ahead.

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402 ^STATEMENT OF HON. GRACE MENG

403 } Ms. {Meng.} Chairman Walden, Ranking Member Eshoo and
404 members of the Subcommittee, thank you for holding this
405 hearing on my Bill, HR 3670, the Anti-Spoofing Act, which I
406 sponsored along with Mr. Barton, Mr. Lance and seven other
407 Republican and seven Democratic members of this Subcommittee.
408 I also thank you for inviting me to discuss the Bill today.
409 It is a great honor to appear before such an esteemed panel.

410 We address today the problem of caller ID spoofing,
411 which is the scrambling of caller identification numbers. It
412 is a tool often used to defraud unwitting recipients of phone
413 calls and text messages.

414 It is often stated that the measure of a society is how
415 it treats its most vulnerable. Almost every day, I receive
416 new reports of caller ID spoofing that harms the most
417 vulnerable in our society. We have reports of widespread
418 caller ID spoofing of new immigrants, which is why USCIS
419 recently issued a former scam alert on caller ID spoofing.
420 And we have reports of widespread targeting of seniors, which

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421 is why the AARP wrote a letter in support of this
422 legislation. Veterans are primary targets as well.

423 Caller ID spoofing is also fracturing the trust built
424 between communities and local law enforcement, because
425 scammers are falsely using police department's phone numbers
426 to trick residents, as we recently heard today. For this
427 reason, the major city's chief's association and major county
428 sheriff's association have endorsed this legislation.

429 I even saw the Chicago Tribune reported on Monday that
430 the families of the unaccompanied minors at the border are
431 being targeted by caller ID spoofing. I mention this not to
432 wade into the border security debate, but rather to
433 underscore the point that if there is a vulnerable or weak
434 population among us, it is likely they are being targeted by
435 caller ID spoofing.

436 Shortly after entering Congress, I pursued this issue
437 because of complaints from a local civic organization and
438 seniors in my district. But I quickly realized it is
439 affecting Americans in all corners of our country in all of
440 our districts. This past tax season, a huge scam was
441 revealed whereby caller ID spoofing was used to dupe tens of

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442 thousands of Americans nationwide into thinking they were
443 being contacted by the IRS, which they were not.

444 I have had very good conversations with many of you on
445 the Subcommittee about pervasive caller ID spoofing in your
446 own districts. And I think the fact that this is playing in
447 so many of our communities is a big reason why we have so
448 much bipartisan support here today.

449 HR 3670 is an update to the Truth in Caller ID Act of
450 2009. That legislation first criminalized malicious caller
451 ID spoofing. But since the passage of that law, scammers
452 have used legal loopholes and new technologies to circumvent
453 it. Thus, malicious caller ID spoofing is on the rapid rise
454 again. So it is time to strengthen and tighten existing law
455 and shut down the roots by which it is being circumvented.
456 And that is what our Bill does.

457 There are three main parts to HR 3670, and I will review
458 them briefly now. Number one, the Bill broadens current law
459 to prohibit caller ID spoofing from foreigners. This is
460 crucial because U.S. based companies now spoof calls to U.S.
461 residents with intent to do harm but originate such calls
462 from outside of the United States. Two, the Bill broadens

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463 current law to include new Internet based voice over IP
464 services that enable callers to make outgoing only calls from
465 computers and tablets to mobile and landline phones. This is
466 a technology that was undeveloped in 2009 when the Truth in
467 Caller ID Act was adopted, and therefore unaccounted for in
468 that law. But it has now grown and has contributed
469 significantly to the caller ID spoofing problem. Three,
470 finally, our Bill broadens current law to include text
471 messaging. We all know this technology has developed, and we
472 thus see text message caller ID spoofing with increasing
473 regularity.

474 I also just want to note that current law and HR 3670
475 only pertain to caller ID spoofing with intent to defraud or
476 cause harm. Sometimes caller ID spoofing can be applied
477 beneficially and benignly, and we have taken great care to
478 exclude such cases from the legislation.

479 In closing, I would like to once again thank the
480 Committee for considering this legislation and for giving the
481 time of day to a freshman who is not a member of the
482 Committee. This process has been a wonderful and inspiring
483 experience for me to take a problem I heard from my

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484 constituents and work through the legislative process in such
485 a positive and bipartisan way--fashion to try and solve that
486 problem. I would especially like to thank Mr. Barton and Mr.
487 Lance for working with me to write this Bill, Chairman Walden
488 and Ranking Member Eshoo for all their guidance, leadership
489 and support, and all the Subcommittee cosponsors who were
490 instrumental in bringing about consideration of this Bill.

491 I would like to thank the witnesses who came to speak
492 today, and of course the Committee and personal staffs who
493 have done such terrific work here. I look forward to
494 continuing to work with the Committee on this issue and
495 legislation.

496 I thank you again, Mr. Chairman.

497 [The prepared statement of Ms. Meng follows:]

498 ***** INSERT 2 *****

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|

499 Mr. {Walden.} Ms. Meng, thank you for bringing this to
500 our attention and working with our committees and our staffs
501 on both sides of the aisle to move good public policy
502 forward, and we appreciate what you have done.

503 We want to thank you both for being here. We actually
504 won't grill you. That is our normal procedure to let members
505 come and make their case and depart. So thank you for being
506 here, and thanks for bringing this to us.

507 We will now move on to the second panel while you two
508 depart. Mr. Louis Libin, did I say that correctly?

509 Mr. {Libin.} Yes.

510 Mr. {Walden.} Thank you. Executive Vice President,
511 Advanced Television Broadcast Alliance, and Mr. Harold Feld,
512 Senior Vice President, Public Knowledge. We welcome both of
513 you gentlemen here to testify this morning. And just bring
514 those microphones close to--uncomfortably close. That is
515 kind of how they work. And push the button. And, Mr. Libin,
516 we will start with you. And thanks again for being here.

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|

517 ^STATEMENTS OF MR. LOUIS LIBIN, EXECUTIVE VICE PRESIDENT,
518 ADVANCED TELEVISION BROADCAST ALLIANCE; AND MR. HAROLD FELD,
519 SENIOR VICE PRESIDENT, PUBLIC KNOWLEDGE

|

520 ^STATEMENT OF MR. LOUIS LIBIN

521 } Mr. {Libin.} Chairman Walden and Ranking Member Eshoo
522 and distinguished members of the Subcommittee, my name is
523 Louis Libin. I am the Executive Director of the Advanced
524 Television Broadcasting Alliance, which is comprised of
525 hundreds of low powered television, or LPTV, broadcasters and
526 owners and operators of translators. Thank you very much for
527 the opportunity to testify regarding the impact of the
528 planned broadcast incentive auctions on LTV--LPTV stations,
529 translators and boosters. In particular, I appreciate the
530 efforts of Chairman Barton to develop the LPTV and Translator
531 Preservation Act, which will require the FCC to consider the
532 great benefits of LPTV and translator stations, rather than
533 indiscriminately eliminating their licenses without any
534 consideration of the value these stations provide to

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535 underserved communities.

536 LPTV service was created to enhance diversity by
537 allowing more unique voices to provide free, over the air
538 television service. LPTV stations address the needs of
539 minorities, women, ethnic communities, the elderly, children
540 and other underserved populations. They also broadcast in
541 rural areas where full power stations sometimes are not
542 commercially viable. Translators extend the reach of
543 broadcast stations into isolated areas. More than 5,000 LPTV
544 stations and translators serve tens of millions of Americans.
545 In many places, these stations are the only broadcast
546 television service available, and they often provide
547 communities their only access to the affiliates of major
548 broadcasting networks. Many translators were built and are
549 operated by local communities to bring broadcast television
550 to their citizens.

551 A third or more of the LPTV and translator stations are
552 now at risk of being shut down by the FCC as it conducts the
553 incentive auction. As you know, the 2012 Congress authorized
554 the FCC to conduct an incentive auction of broadcast
555 spectrum. The 2012 Spectrum Act expressed a fundamental

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556 principle about spectrum use that spectrum allocation should
557 reflect market demand. Unfortunately, the FCC's auction plan
558 does not reflect this core principle. The FCC gives no
559 consideration at all to the value of the service provided by
560 LPTV and translator stations.

561 Because the FCC does not have to share proceeds of the
562 auction with LPTV or translator stations, those stations are
563 simply free spectrum in the eyes of the FCC. From the
564 perspective of the auction itself, there is no cost to
565 eliminating LPTV and translator service. Under the FCC's
566 auction rules, the FCC could cancel hundreds or even
567 thousands of LPTV and translator licenses, even if doing so
568 would not generate a single dollar in additional revenue for
569 the auction. The FCC could eliminate LPTV and translator
570 stations just for the sake of running the auction faster or
571 with less precise calculations, or for the sake of completing
572 the auction in less than half the 10 years Congress
573 authorized. And that is exactly what the FCC is doing. It
574 has adopted rules that run the auction at breakneck speed,
575 with literally no consideration at all of the impact on
576 citizens served by LPTV and translator services.

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577 This is not a market mechanism. It is a pointless,
578 tragic destruction of value, jobs, diversity, localism and
579 rural service. The FCC could shut down thousands of LPTV and
580 translator stations to give wireless carrier spectrum in
581 rural areas that they do not need, and likely will never use.
582 The FCC's incentive auction order also treats low powered
583 television stations as secondary, even to unlicensed
584 services. Congress did not authorize the FCC to elevate
585 unlicensed services over licensed LPTV and translator
586 services. While the economic costs of the FCC's approach
587 will be born most directly by the licensees, the public
588 served by these critical facilities is the big loser. The TV
589 stations that air local high school football games, provide
590 ethnic and foreign language programming, provide church
591 services and weather alerts, and bring network programming
592 into rural areas that are already underserved will all be
593 gone without any consideration of the value lost to millions
594 of Americans, and regardless of whether market--whether the
595 market actually demands additional wireless spectrum in those
596 areas.

597 While LPTV and translator operators and their audiences

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598 would like to see much more done, the LPTV and Translator
599 Preservation Act is a step in the right direction. We are
600 very thankful for the support Chairman Barton has given to
601 Americans who rely on LPTV and translator service. Thank you
602 very much again for the opportunity to testify.

603 [The prepared statement of Mr. Libin follows:]

604 ***** INSERT 3 *****

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|

605 Mr. {Walden.} Mr. Libin, thank you. And go ahead and
606 turn off that microphone. We appreciate your being here. We
607 appreciate the--your testimony on this important matter.

608 Mr. Feld, we welcome you to this discussion. Please go
609 ahead.

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|

610 ^STATEMENT OF HAROLD FELD

611 } Mr. {Feld.} Thank you, Chairman Walden and Ranking
612 Member Eshoo. Thank you very much for inviting me to testify
613 today.

614 I want to start by voicing my strong support for both
615 the Anti-Spoofing Act and the E-LABEL Act. These Bills
616 provide necessary updates the Communications Act, and Public
617 Knowledge supports their swift consideration and passage.

618 But while I agree with the principles behind the LPTV
619 and Translator Act, I strongly recommend against
620 consideration of this Bill. Consideration of this Bill
621 creates needless uncertainty and delay around the broadcast
622 incentive auction. I say needless because the FCC is already
623 committed to doing precisely what this Bill tells it to do.
624 As I have said many times over the last four years, and as
625 you have heard from others, the broadcast incentive auction
626 poses enormous challenges for the FCC. The difference in
627 complexity between the incentive auction and the first
628 spectrum auctions conducted by the FCC in 1994 is like the

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629 difference between the cell phones of 1994 and the smart
630 phones of today. But instead of the gradual evolution over
631 20 years we had in phone technology, we are asking the FCC to
632 jump from the auction equivalent of a brick phone to the
633 auction equivalent of an iPhone.

634 Adopting this Bill will create new delay at a time when
635 the auction framework finally appears to be coming together.
636 After nearly two years of contentious debate involving some
637 of the most renowned spectrum auction experts in the world,
638 hundreds of engineers and thousands of stakeholders, the FCC
639 adopted a framework for the auction in May. While much work
640 remains to be done, we have reached the point where the FCC
641 can set a timeline for the remainder of the process, and
642 stakeholders can have confidence the auction will take place.

643 Importantly, the FCC can begin building the entirely new
644 auction software and hardware needed to make all the many
645 pieces of this auction work together in real-time. But we
646 can only move forward from here if all stakeholders have
647 confidence that the framework adopted in May is a stable
648 foundation on which to build, which brings me back to the
649 LPTV Bill. Despite efforts to limit the Bill's scope,

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650 questions will reverberate throughout all aspects of the
651 auction. Imagine a row of wine glasses packed tightly
652 together. Tap one, and the rest start to hum as the
653 vibrations ripple out. So to, implementation of the LPTV Act
654 would reverberate through the entire auction framework. For
655 example, the FCC will need to consider whether the Bill's
656 command to avoid terminations of LPTV and TV translator
657 license where possible impacts the auction and repacking
658 design, or whether reduction in projected revenue would be an
659 adverse impact on the auction. These questions implicate the
660 repacking as a whole, the band planned, and nearly every
661 other key element of the auction design everyone thought we
662 already settled. Work on the new auction software and
663 hardware will slow or stop entirely until these questions can
664 be settled again.

665 And what is the urgent need that justifies this new
666 delay and uncertainty? At the moment, none. The FCC is
667 already committed to doing precisely what the Bill requires.
668 As part of the framework adopted in May, the FCC explicitly
669 recognized the importance of LPTV and TV translator services,
670 and committed to completing a further notice of proposed

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671 rulemaking to ameliorate the impacts of the auction. Given
672 that the FCC appears to be on the right course, there seems
673 no reason to introduce new potential devastating, uncertainty
674 and delay.

675 To conclude, the importance of localism and diversity in
676 broadcasting is a value that no one questions. Localism and
677 diversity have been the fundamental foundation of our
678 national broadcast policies since Congress passed the Federal
679 Radio Act in 1927. LPTV and TV translator licensees are
680 important parts of that ecosystem, as the FCC continues to
681 recognize. No one wants to eliminate licensees providing
682 valuable services to their local communities. I may add that
683 just last week before this Bill was introduced, I and other
684 members of the public interest spectrum coalition were
685 present at a meeting with the FCC staff, and we once again
686 urged the FCC to consider means to allow LPTVs to transition
687 smoothly, including voluntary reduction in power, precisely
688 the mechanism that the Bill recommends.

689 There is broad support for continuing service of LPTVs
690 and translators, consistent with the direction that Congress
691 gave to the Commission in the Spectrum Act of 2012. Passing

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692 new legislation, even if it is only intended to reinforce
693 what the FCC is already committing to do, will reintroduce
694 new uncertainty and delay at precisely the wrong time.

695 Thank you. And I look forward to your questions.

696 [The prepared statement of Mr. Feld follows:]

697 ***** INSERT 4 *****

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|

698 Mr. {Walden.} Thank you, Mr. Feld. You have far more
699 confidence in the FCC than I do. But then I understand why.

700 Let us--I want to ask a couple of questions, because
701 this really matters to the public, to consumers in districts
702 like mine, all across--not only in rural areas, but urban
703 areas. And I have met with a lot of these folks who have
704 LPTV and low power. They serve minority populations in many
705 cases with specialty programming. And my message here, and I
706 think it is shared by Mr. Barton, is I don't want a runaway
707 FCC that simply squishes them because they can and takes them
708 out. I am also not going to give them full power authority,
709 because they didn't have that to begin with. But I think you
710 are over the top in terms of kind of this notion you are
711 going to blow up the whole auction, because you actually
712 admit that the FCC is headed down this path anyway. I am
713 reinforcing that. I was hoping to have a lot more faith in
714 this FCC. But I am seeing some really bad behavior from the
715 top down where Republican commissioners are kept out of the
716 loop, where there is a process failure. I don't think this
717 hearing is going to get into this. But I just think you are

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718 over the top, and I am just going to tell you that.

719 In places like my district, these translators are really
720 important. They really are. And I want to send a clear
721 message without screwing up the auction that they need to be
722 thoughtful about this, whether it is in a rural area or an
723 urban area. There are a lot of people served. And you can
724 have a band plan that squishes out just for the sake of
725 getting more spectrum available for the big companies that
726 want to buy it. And I think we have got to be thoughtful
727 about the public spectrum and how it is used and how it is
728 allocated.

729 Now, Mr. Libin, a number of your colleagues in the LPTV
730 community have also expressed opposition to this Bill, I
731 think for other reasons, and have suggested they would rather
732 have no Bill than this Bill. Could you explain why some LPTV
733 providers feel this way?

734 Mr. {Libin.} I think that they are concerned that by
735 opening this door it is going to bring discussions on LPTV
736 and the auction and take it in places back to the FCC where
737 it may not have the conclusions that they want. For example,
738 there is an NPRM, a--a Notice of Proposed Rulemaking on LPTV

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739 coming up. But that is really just a mechanism to talk about
740 how essentially the FCC has plans to shut down these
741 stations. It is surely not a mechanism to help LPTV. The
742 LPTV industry I have to tell you is very different than the
743 big broadcast industry. I--actually, I come from NBC. I am
744 used to coming with big contingencies. The LPTV industry is
745 an industry of typically mom and pops. They are small
746 businesses. Not that they don't employ people. They all
747 employ a lot of people.

748 Mr. {Walden.} Right.

749 Mr. {Libin.} We are not talking about eliminating
750 thousands. It is still a lot of people. But this is the
751 other--essentially, there may not be unity in the community,
752 but it is becoming--

753 Mr. {Walden.} We are aware of that.

754 Mr. {Libin.} But it is becoming more and more. I
755 believe that the industry is tightening up. I mean, you can
756 see just in the past few months, we now have the NAB is our
757 partner, and we have the National Translator Association.
758 And we are working with the NRB. So I think we are really
759 finding the commonality that we need. But it is a small

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760 industry.

761 Mr. {Walden.} Okay. That is the only questions I have.

762 I will now yield back the balance of my time, recognize my

763 friend from California, Ms. Eshoo.

764 Ms. {Eshoo.} Thank you, Mr. Chairman. And thank you to

765 both Mr. Libin and Mr. Feld.

766 It seems to me I think I probably have more an

767 observation after listening to the testimony and, of course,

768 reading the--you know, the staff memo that there are some

769 issues to be dealt with here. And I think it is a question

770 of how it is done. I think it is a question of how it is

771 done and how we thread the needle.

772 We had a chance to chat before as I came into the

773 hearing room a little earlier this morning. And you were

774 talking about rural areas and then said the Bay Area. The

775 Bay Area doesn't have a lot of rural areas, but it does have

776 some. And I asked you what you were referring to.

777 Mr. {Libin.} The South City.

778 Ms. {Eshoo.} What you were referring to is not rural.

779 It is a heavily populated area. It is the northern part of

780 San Mateo County, the county that I live in, just outside the

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781 city and county of San Francisco and very close to San
782 Francisco International Airport. And there--it is the
783 largest Filipino-American community outside of the
784 Philippines that resides in that area. So there are issues
785 here and communities of interest that we need to look after.
786 We are not looking to do something where there would be a
787 loss of jobs or, very importantly, the communications that
788 these communities of interest rely on.

789 I don't think you have a case for completely rewriting
790 the whole thing, to tell you the truth. And--but I do think
791 that we need to work so that what I just mentioned and--or
792 outlined as to the Chairman that we thread this needle so
793 that those two elements are not disrupted. I appreciate Mr.
794 Feld's testimony. I love it when people come here and feel
795 strongly about things. I really do, even when I disagree
796 with them. I mean, it is the place to do that.

797 And so I thank you for that. I do have the concern
798 that, you know, we are what, now almost two years into the
799 planning for the auction--for the spectrum auction? And it
800 is the first time in the history of our country--actually, in
801 the world that this kind of auction is going to take place.

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802 So we are not--none of us want to throw sand in the gears.
803 And I think that is what you are talking about. And the
804 Chairman has--he has his misgivings about the agency and its
805 jurisdictions and how they do things. I have I think more
806 confidence than he does. But be that as it may, I don't want
807 anyone squashed in this either, because I think we need to
808 look after these important communities in our country. So I
809 think more than anything else that we have got some work to
810 do to refine this.

811 I really don't have questions to ask you. I think the
812 Chairman already asked you, Mr. Libin, what I was going to
813 ask. And, Mr. Feld, thank you for being here and for what
814 you have focused on. And you always come here with a lot of
815 passion. And I love that. I love it. So I think that we
816 have some work to do together on this to help resolve some of
817 the issues that the--we not throw sand in the gears relative
818 to the auction, but that we recognize that there are
819 communities of interest that are really reliant on this. And
820 I don't think, Mr. Libin, you are going to get everything you
821 want. But you know what? No one does around here. So if we
822 can resolve it the way I think we're both describing it, then

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823 we will have accomplished something.

824 I yield back.

825 Mr. {Walden.} The gentlelady yields back the balance of
826 her time. I turn now to the Former Chairman of the
827 Committee, Mr. Barton, for five minutes.

828 Mr. {Barton.} Well, thank you. And I appreciate the
829 testimony of both of you gentlemen. I appreciate the
830 comments of Ms. Eshoo and our Chairman.

831 I am going to go back to the story of Goldilocks and the
832 Three Bears. There are probably some of the younger people
833 don't get those stories anymore, but I am of an age that I
834 remember those when I was a child. And there were three
835 bowls of porridge. And one bowl was way too hot, and so one
836 of the bears says it is too hot. And another bowl was way
837 too cold, and the second bear said well, it is too cold. But
838 then the third bowl, the middle bear said it is just right.

839 Now, our Bill that is three pages--three pages--really
840 just two pages. I am going to read the relevant portion,
841 because this is one of these things that average people, and
842 even members of Congress, can actually understand, you know?
843 It is low powered television translator and television

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844 booster stations, A, in general--now this is for the people
845 that says it is too cold. Okay? Nothing in this subsection
846 shall be construed to alter the spectrum usage rights of low
847 power television stations, television translator stations or
848 television booster stations shall be construed to alter the
849 spectrum usage rights. This Bill doesn't give them any new
850 rights. Okay? It doesn't give them any new rights.

851 Now, B, preservation. And here the keyword is the third
852 word, the Commission shall, s-h-a-l-l, shall, s-h-a-l-l,
853 shall, one, in general, consider the benefits of low power
854 television stations, television translator stations and
855 television booster stations to the communities of license of
856 such stations consider the benefits. So it says the FCC has
857 to consider the benefits. Two, where possible, avoid the
858 termination of the low power television station, television
859 translator station or television booster station as long as
860 such avoidance does not adversely impact the reverse auction
861 under Subsection A(1) or the forward auction under Subsection
862 C(1). And, three, after the completion of the reassignments
863 and reallocations under paragraph 1(b), permit any low power
864 television station, television translator station or

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865 television booster station to request to--here, request to
866 operate at reduced power or from a different transmitter
867 location consistent with the Commission's rules of such
868 station or otherwise lose its license as a result of such
869 reassignment or reallocation.

870 So what this does, it says the FCC shall, if possible,
871 preserve the termination of the low power television station.
872 So it does give increased standing. But that is all. The
873 FCC still can make the decision, and it cannot impact the
874 reverse auction. You know, Section A guarantees that. So
875 with all due respect to Mr. Feld, I think this Bill is just
876 right. It really--it elevates low power television's
877 standing before the FCC. They have to consider these things.
878 But once they have considered them, you know, they can't let
879 it adversely impact the auction, and they go forward. So,
880 you know, this is one of those Bills where it is funny to see
881 some people in the industry itself saying oh, this thing
882 doesn't do anything, doesn't go far enough. Well, you can't
883 give a right that they don't have now. But on the other
884 hand, to have Mr. Feld and his folks oh, it is going to hold
885 up the auction. Oh, my God, you know? Well, what the hay?

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886 It just says they have to consider these things.

887 Mr. {Walden.} Would the gentleman yield?

888 Mr. {Barton.} I would be happy to yield.

889 Mr. {Walden.} I think the last part is also really
890 important. It says if after all--everything is said and done
891 after the auction, if there is another way for them to
892 survive, they should have the right to apply for that,
893 different location, different power, different whatever. And
894 I think that is the survival lifeline.

895 Mr. {Barton.} Yeah. So, you know, every now and then,
896 Congress breaks out in commonsense. This is a commonsense
897 Bill. It really is. Now, my good friend, Anna Eshoo, if she
898 has really got concerns about this, let me know. We will
899 work with you. But these stations have real value. But
900 under the current law, it is not considered. And instead of
901 just letting the FCC do whatever the heck they want, this
902 Bill at least says hey, you have got to consider these
903 things. And I think that is fair. I think it is the right
904 thing to do. And I think it will result in a better process.
905 As Mr. Libin pointed out, you know, why should you give an
906 unlicensed operator operating a wide space more authority

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907 than somebody who at least has a secondary license? This
908 Bill does that. And I hope we can pass it on a bipartisan
909 basis.

910 Thank you for the courtesy.

911 Mr. {Walden.} Thanks for working with us. And we
912 appreciate your patience and your involvement in this issue.
913 It is very important. I now turn to the gentleman from Iowa,
914 Mr. Braley.

915 Mr. {Braley.} Thank you, Mr. Chairman. I could have
916 sworn, Mr. Chairman, that Mr. Barton was going in another
917 direction with that fairy tale. I thought it was going to be
918 Little Red Riding Hood. And I was just waiting for whom the
919 big bad wolf was going to be, so I feel somewhat let down.

920 Mr. {Walden.} That is--

921 Mr. {Barton.} I am saving that for Full Committee.

922 Mr. {Braley.} But I think as we talk about these
923 issues, which are important issues, it is also important to
924 look back over the history of telecommunications. Because it
925 is not the LPTV stations, but the UHF stations that have
926 served a more limited audience in remote areas of the country
927 often were in the vanguard of some of the innovation and

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928 technology in the industry. I happen to represent a UHF
929 station in Dubuque, Iowa, which was in the vanguard of cable
930 television because it was located on the bluffs of the
931 Mississippi River. They had a hard time getting over the air
932 signals from more conventional VHF stations. And through the
933 work that was done there decades ago, the basic foundation
934 for what we now know as cable television started a merge in
935 communities around the country. And since this spectrum is
936 held in the public interest, I think it is important for us
937 to keep that focus on those who have gone before and have led
938 us down paths of innovation that provide the incredible array
939 of services we now get over the spectrum.

940 So I guess for the panel, my question for you both is in
941 light of some of the comments that have been made here today,
942 in light of how people are served across the country through
943 these current LPTV stations, what are the biggest risks and
944 the biggest rewards you see from moving forward with the
945 legislation as it is currently drafted?

946 Mr. {Feld.} Well, first, I would just like to address
947 one misconception that I have now heard a couple of times,
948 which is with regard to the relationship between LPTVs and

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949 unlicensed. It is important to realize that what the
950 Commission has done is tried to balance things. And in fact,
951 what the Commission did was to sort of merge wireless
952 microphones, which are another secondary wireless service
953 associated with broadcasting, and regarded as critical with
954 broadcasting, with the unlicensed and say these are smaller
955 transmitters, they operated in a way that is consistent with
956 each other, we will have them share some space. And then
957 over here, with the larger fixed transmitters, the LPTV and
958 the translators, we will have a different question as to how
959 we try to fit them in the intricacies of the repacking. So
960 this is not--the FCC was very careful to not revisit its
961 existing hierarchy. But what it has done is what Congress
962 has directed it to do, which is balance many interests. In
963 that light, I think that there is a tremendous opportunity
964 here for the LPTV service as part of this transition to the--
965 through the incentive auction. It is true that the LPTV
966 service has fallen on very hard times for a number of
967 reasons, many of which are not related to the incentive
968 auction but have to do with the digital transition, with the
969 fact that they do not have must-carry rights on cable. I

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970 used to work with this community a lot some years ago when I
971 was a media access project. My hope has been, and we have
972 expressed it at every opportunity in our filings at the FCC,
973 is that this is an opportunity for the Commission to
974 recognize and reward those licensees that are providing local
975 service, contributing to diversity, satisfying the public
976 interest and upholding those traditions of trustees of the
977 public airwaves while simultaneously examining those bad
978 actors in the field who are, you know, speculators or who
979 were not serious, or who for reasons totally unrelated to the
980 incentive auction have essentially gone dark but still hold
981 permits in the hopes that someday they will be able to come
982 back again. And I think that the advantage and disadvantage
983 of this process is it is really going to help separate the
984 genuine service to local communities and hopefully, you know,
985 shine a spotlight on those and reinvigorate those, while also
986 maximizing spectrum efficiency overall.

987 Mr. {Libin.} Thank you so much. I have to try to come
988 back to the question that you had, which I--and I think the
989 question really was who will be impacted. And it is a great
990 question. And that is--if I knew that answer, then I would

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991 right now be sitting in the--at the FCC, because I think they
992 are the only ones who know. If you ask me how many--who
993 would be hurt, which LPTV and TV translator stations--well,
994 not just stations but they could actually impact through a
995 chain reaction through translators, because that is how they
996 work. So how many? So the answer is, it is hundreds of
997 thousands, or thousands. And it really turns out to be an
998 amazing--nobody really knows. That is really the whole
999 point.

1000 We are looking for transparency here. We are really
1001 trying to understand. We don't. If you ask me right now do
1002 we want to slow down the auction? Do I want to stop it? The
1003 answer is absolutely not. We want this to go forward. We
1004 think this is in the best interest of America. But we want
1005 to do it right. We want to make sure that everything we are
1006 doing won't be held up, just--you know, I could just examples
1007 of health. I am not going there. But we all know that we
1008 want to do right. This is a major deal.

1009 We are 2 and a half years into a 10 year process. We
1010 are not rushed. Let us get it right. Let us get it really
1011 done right. If we look at who is going to be hurt, if you

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1012 look at the ownership of LPTV and translator stations, it is
1013 somewhat close to 30 percent is minority and women ownership.
1014 If you look at if we call it the other broadcasters and
1015 cable, it is--I think it is less than three percent. Those
1016 are the people that would be hurt. It is the people who are--
1017 --whether they are sitting in Oregon or sitting in Youngstown,
1018 Iowa, or--and this is the only way they receive you, or in
1019 Utah and wherever they are. There are so many of these
1020 stations and so many people who rely on this service that I
1021 think we just need to tread very lightly when we are
1022 considering moving ahead with the auction. We need to
1023 consider LPTV and TV translators.

1024 Thank you so much.

1025 Mr. {Feld.} Thank you, and I yield back.

1026 Mr. {Walden.} Thank the gentlemen. We will now
1027 recognize Mr. Latta for five minutes.

1028 Mr. {Latta.} Well, thank you very much, Mr. Chairman.
1029 And again, thanks for our witnesses for testifying for us
1030 today. And this, you know, is a very good discussion we are
1031 having here, because I know the question that the Chairman
1032 brought--asked, you know, why are some people against the

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1033 Bill? Ranking Member Eshoo was talking about that, you know,
1034 we are not always talking about rural areas, but, you know,
1035 it is areas that are impacted that have certain minority
1036 populations that could be hit. My friend from Iowa, Mr.
1037 Braley, was asking a question about who is going to be
1038 impacted.

1039 But, Mr. Libin, let me ask you this, because again I
1040 represent kind of a unique area. It goes from very, very
1041 rural to almost into parts of a large city. And when you are
1042 looking at all these questions that have been asked so far by
1043 members of the Committee, I guess the question is if we have--
1044 --he FCC is not mindful of these LPTVs and the translator
1045 stations throughout the spectrum auction and shut them down,
1046 will you have rural consumers, or as the Ranking Member
1047 mentioned in larger cities that you have certain minorities
1048 that might be impacted with that, what are the options that
1049 these individuals are going to have out there from the rural
1050 or to the city if this has happened that they wouldn't have
1051 these LPTVs?

1052 Mr. {Libin.} I think that is a great question. When we
1053 talk about diverse, diverse is--we are talking about

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1054 financial as well. And there aren't always options. There
1055 are many options that all America--or a typical America could
1056 have when it comes to whether it is entertainment or news, or
1057 wondering if that there is a tornado warning is coming and
1058 how am I going to get that. Well, if they don't have this
1059 free over the air coming to them, and a lot of people this is
1060 the way they do have it now, they are not going to know.
1061 They are not going to know what is happening in their
1062 community. They are not going to know what is happening
1063 nationwide. But especially local, they are not going to
1064 know, aside from I mentioned high school football and all of
1065 that. But it really has to do with life and public safety.
1066 This is their lifeline for many, many people.

1067 And it is so interesting I brought up the Youngstown,
1068 Iowa before, because there are a number of LPTVs over there
1069 as well. But going back to when I was mentioning in the Bay
1070 Area, so--and you brought up the opposition to LPTV, you
1071 know, it really is like a chess game, because in the Bay
1072 Area, we were talking about the language that they were
1073 speaking from the Philippines was Tagalong. I think I
1074 pronounced that right. Was that correct?

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1075 Ms. {Eshoo.} Tagalog.

1076 Mr. {Libin.} Tagalog. This language that they do. But
1077 there is also Vietnamese and Mandarin. And they are all
1078 intertwined in that area. And these LPTV and translator
1079 stations are put like chess pieces there. So you are
1080 correct. If somebody now says wait a second, we might have
1081 to move our station. Well, if you are now receiving--you
1082 have your population of Mandarin, then what are they going to
1083 do with this station over here? So you are absolutely
1084 correct that there could be. So this is--these are all very,
1085 very good issues. But I am glad that we are discussing them,
1086 because all of this is very important to an underserved
1087 population.

1088 Mr. {Latta.} Well, thank you very much, Mr. Chairman.
1089 I am going yield back the balance of my time.

1090 Mr. {Walden.} I thank the gentleman for his questions.
1091 And now we will turn to the--okay. Now, we will turn to--who
1092 is next on our side? Let us see. I think Mr. Long is next.
1093 Mr. Long, do you have questions for our witnesses, or a
1094 statement?

1095 Mr. {Long.} Thank you, Mr. Chairman. And thank you all

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1096 for being here today.

1097 Mr. Libin, can you give me a specific example of maybe
1098 just one example of a low power TV station which would go out
1099 of business if the FCC makes changes to the incentive
1100 auction?

1101 Mr. {Libin.} That is also a great question. So there
1102 are--as we know now, there are thousands of LPTV stations and
1103 translator stations. And I could make assumptions. But
1104 since we haven't seen any of the results of the auction yet,
1105 so I am not privy to what any of the results of the spectrum
1106 repacking study. This goes into the--all of this has to take
1107 the geography of the country, and then it goes down to the
1108 level of the specific area. And it has to--now, you have to
1109 do station coverage and decide well, there are different
1110 scenarios. How much spectrum are we getting back? If we are
1111 getting back so that we can sell in the auction a certain
1112 amount, it affects this number of stations. So you are
1113 asking a very, very good question. And I myself would love
1114 to know the answers, as well as the LPTV and the TV
1115 translator operators and owners, as well as the one--the
1116 manufacturers of the equipment. Because in--within the past

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1117 I think past month, just last week, one U.S. manufacturer of
1118 TV translator equipment has gone out of business because of
1119 all the uncertainty in this market. So...

1120 Mr. {Barton.} Would the gentleman yield, Mr. Long?

1121 Mr. {Long.} Yes.

1122 Mr. {Barton.} Let me rephrase the question that he just
1123 asked you, or give a generic answer. Wouldn't it be more
1124 likely that a low power television station that had been
1125 operating in an area that had been rural but had now become
1126 more urban or suburban, and was in a growth area where there
1127 was a high demand for wireless services, and maybe like the
1128 Congressman's district in Branson, Missouri that if there
1129 were a low power television station, that station might lose
1130 its license because of the demand for wireless carriage
1131 because the population had grown? Isn't that an example--
1132 possibly an example?

1133 Mr. {Libin.} That is absolutely a very good example.
1134 Another example that would hit home to the Chairman--to
1135 Chairman Barton would be if you look at, for example, you--if
1136 you take Texas and you look at Dallas, you can actually
1137 follow the translators along the interstate, because that is

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1138 where the populations are. And if one of them are impacted,
1139 the whole chain goes down. So in that effect, we are talking
1140 about a very big effect to a lot of people.

1141 Mr. {Barton.} I thank the gentleman.

1142 Mr. {Libin.} Thank you so much.

1143 Mr. {Long.} Let me kind of follow-up with all the
1144 moving parts and pieces. And I come from a 30 year
1145 background of the auction business. So I know a little bit
1146 about auctions. With all the moving parts and pieces that
1147 you are talking about, isn't that also going to affect how
1148 the bidders will look at what they need and what this auction
1149 will provide?

1150 Mr. {Libin.} I think so. I mean, that is--that
1151 question is--or if it is a question, it has to have an
1152 impact. But the impact is really minor. It is a minor
1153 impact, because again just by name, low power television are
1154 lower power television. So they just need to be considered
1155 just as if there was some terrain in the way or something
1156 else. There is the impact of low power television into the
1157 auction to be considered in all the repacking scenarios is an
1158 impact, but it is not a major, major impact.

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1159 Mr. {Long.} Okay. Thank you. And, Mr. Feld, from your
1160 testimony here today, you obviously think that the FCC has
1161 done a great job so far with this incentive auction
1162 preparation. Do you think they have made any mistakes and
1163 should have done anything differently or did anything
1164 differently regarding auction preparation?

1165 Mr. {Feld.} Well, I think that this has been a very
1166 challenging process for everybody, where everybody learns as
1167 they go. If we had known two years ago that this is where we
1168 were going to end up, we could have gotten here a lot faster.
1169 But I do have to say that one of the problems which I want to
1170 highlight is as Mr. Libin says from his perspective, this is
1171 a minor impact. But again, all of these impacts, because
1172 these issues are so tightly wound with each other, all have
1173 impacts everywhere else in the auction structure, which
1174 requires everything to be recalibrated. So I think part of
1175 the delay and part of the issue here has been how do you get
1176 all of these complicated pieces to work together when we have
1177 no guide and sometimes conflicting goals that the FCC has
1178 been instructed by Congress to balance? I also think that
1179 there is a concern about time. Mr. Libin has said, you know,

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1180 we have 10 years to get this right. We don't really have 10
1181 years. Congress gave the FCC 10 years to make sure that
1182 things could get done. But at impetus to pass legislation
1183 was the spectrum shortage, which we have been concerned
1184 about, and the demand for wireless capacity continues to
1185 grow. It was to fund deficit reduction, to fund FirstNet.
1186 And the longer we delay the auction, the longer these remain
1187 outstanding items on our federal budget ledger. So I think
1188 that particularly here where I do believe that the FCC has
1189 been overall doing a pretty good job of trying to thread this
1190 needle, and where we have a process that is unfolding now,
1191 then rather than have Congress drop another Bill, tell
1192 everybody to go back to--to go rethink does this legislation
1193 change the progress that we have made so far, that we ought
1194 to keep going, Congress should continue to exercise
1195 oversight. And if the further notice does not work out the
1196 way that Congress believes is necessary, there will still be
1197 time to take corrective action.

1198 Mr. {Long.} Okay. Thank you. And I am way over my
1199 time. And thank both of you once again. And, Mr. Chairman,
1200 I yield back.

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1201 Mr. {Walden.} Mr. Long, thank you for your questions.

1202 Ms. Eshoo and I decided we are just going to put you in
1203 charge of the auction when we get this thing done.

1204 Ms. {Eshoo.} Yeah.

1205 Mr. {Walden.} It would be a lot cheaper, faster,
1206 easier.

1207 Mr. {Long.} This thing here might take 10, 20, 30, 40
1208 years.

1209 Mr. {Walden.} That is all right. And we will raise
1210 more money, and we guarantee we will have more fun. Mr.
1211 Matheson, I am just going touch base with you one more time.
1212 Okay. Then we will go to Ms. Ellmers for final questions, if
1213 you have any?

1214 Mrs. {Ellmers.} Thank you, Mr. Chairman. Mr. Feld, I
1215 will start off with you just in continuing the conversation
1216 here. From what I am hearing, you seem to believe that the
1217 proposed LPTV legislation would delay the incentive auctions.
1218 Obviously, you kind of made that clear. And, obviously, this
1219 is problematic. But what are the consequences if the FCC
1220 fails to protect translators and LPTV stations?

1221 Mr. {Feld.} Well, part of this is I understand that

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1222 there is some--in your particularly--in the LPTV community,
1223 but from where we have been sitting and what we have been
1224 urging has been for the FCC to actually take great care to
1225 protect these services. The FCC has continued to recognize
1226 their importance.

1227 Mrs. {Ellmers.} Um-hum.

1228 Mr. {Feld.} We have continued to stress their
1229 importance. You know, Public Knowledge is an organization
1230 that has supported localism and diversity in media for a very
1231 long time. I think we all recognize that if services in
1232 communities that communities rely and go dark, that that
1233 would be a grave disservice to those communities and would be
1234 contrary to over 80 years of communications long precedent.
1235 For that reason, I think that where the FCC is continuing to
1236 take these things very seriously, where the struggle has been
1237 to try to figure out how to balance multiple interests that
1238 Congress should continue to exercise its oversight.

1239 Mrs. {Ellmers.} Um-hum.

1240 Mr. {Feld.} Be prepared to step in, if necessary. But
1241 legislation is a very big step. And contrary to what
1242 Chairman Walden may believe, I know the FCC takes the acts of

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1243 Congress very seriously. At least they spend a lot of time
1244 considering them. And if there is a Bill that is proposed
1245 now, my concern is that it causes everybody to take their
1246 tokens, go back to go and reopen a lot of issues that we had
1247 thought were settled.

1248 Mrs. {Ellmers.} Okay. Mr. Libin, I understand there is
1249 a 10 year window of time that has been mentioned already.
1250 What do you see is the relevant timeline for the LPTV and
1251 translators in terms of your feelings of the impact of the
1252 incentive auction? Is that--are you--is the 10 year, or are
1253 you coming down to a shorter period of time now as well,
1254 considering all things?

1255 Mr. {Libin.} Right. So first of all, our goal is, as I
1256 said before, is absolutely not to slow down the process at
1257 all. It is an optimization process. We now know more. We
1258 also know a little bit that the FCC sort of needs this nudge
1259 on LPTV and TV translators and boosters, because they have
1260 been advocating a little bit maybe on the side of the
1261 wireless providers. And that is where we sort of had this
1262 whole issue where now LPTV might be tertiary to the wireless
1263 providers. So I think that is why this is so important to

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1264 come back with sort of the reminder from Congress that this
1265 is the way you have to treat LPTV. And I don't think that it
1266 really slows the process down. I think that in effect if we
1267 open it up, there are a lot of experts out there--a lot more
1268 experts who now could come in and can say and by the way,
1269 there are many tweaks that have to be done to the software
1270 right now. And so this is just another one. Let us add it
1271 in there. And let us see how far we can help keep the
1272 deadline, which is again we are all shooting for much less
1273 than 10 years.

1274 Mrs. {Ellmers.} Right. And, Mr. Feld, do you want to
1275 expand on that?

1276 Mr. {Feld.} I would just like to add that our
1277 organization, Public Knowledge, other organizations in the
1278 public interest spectrum coalition, which include
1279 organizations that care a great deal about diversity in
1280 media, have consistently hoped that this can be a win for
1281 everybody. And one of the advantages of the ongoing FCC
1282 process is we continue to try to work with the--all of the
1283 communities who are involved to find solutions. As I say, we
1284 have proposed the solution that is actually proposed in this

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1285 Bill, this voluntary reduction in power in order to save
1286 licensees. We think that there are other ways in which we
1287 can cooperate rather than view this as a, yeah, fight. And
1288 my hope is that in fact what we need is not a push for the
1289 FCC to go back to the beginning and force everybody to go
1290 through all of this again, but instead a nudge for all of the
1291 parties to come together and find solutions that are going to
1292 maximize the efficiency for everybody.

1293 Mrs. {Ellmers.} Um-hum. Thank you. And thank you
1294 both. And, Mr. Chairman, I yield back the remainder of my
1295 time.

1296 Mr. {Walden.} Thank the gentlelady. And I thank our
1297 witnesses for your testimony. If you have other comments we
1298 should be aware of, please submit them. And I am sure we
1299 will probably have some questions perhaps from the Committee,
1300 so we will keep the record open for submission of that, as
1301 according to our rules.

1302 We thank you very much. And I thank everyone for being
1303 here and participating. And we stand adjourned.

1304 [Whereupon, at 11:25 a.m., the subcommittee was
1305 adjourned.]